

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

STEPHEN CORTNEY MAXWELL)	
)	
v.)	NO. 3:23-cv-00094
)	
SHEILA JACKSON LEE <i>et al.</i>)	

TO: Honorable Aleta A. Trauger, United States District Judge

REPORT AND RECOMENDATION

By Order entered March 16, 2023 (Docket Entry No. 9), the Court referred this *pro se* civil rights action to the Magistrate Judge for pretrial proceedings. For the reasons set out below, the undersigned respectfully recommends that this action be dismissed without prejudice.

Stephen Cortney Maxwell (Plaintiff) is resident of Antioch, Tennessee. On March 16 2023, he filed this *pro se* lawsuit against United States Congresswoman Sheila Jackson Lee and the “United States Government and Congress,” bringing claims of wrongdoing under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) and 28 U.S.C. § 241. *See* Complaint (Docket Entry No. 1).

Plaintiff was advised in the Court’s referral order that he was responsible for effecting service of process upon the defendants in accordance with Federal Rule of Civil Procedure 4. *See* Order at 1. Plaintiff was further specifically warned by the Court that his failure to timely complete service of process upon the defendants could lead to the dismissal of his case under Rule 4(m). *Id.*

The docket lacks any evidence that Plaintiff has executed proper service of process in the case. Further, Plaintiff's motion for judgment by default against Defendant Lee was denied by the Clerk on June 7, 2023, in part for lack of service of process. *See* Order (Docket Entry No. 15). Plaintiff has not taken any other action in the case since the Clerk's June 7, 2023 order.

Rule 4(m) requires that the defendants be served with process within 90 days of the date the action was filed and provides that, in the absence of a showing of good cause by the plaintiff for why service has not been timely made, the Court "must dismiss" the action without prejudice. Because Plaintiff has failed to demonstrate that the defendants in this case were timely and properly served with process, this action must be dismissed.

RECOMMENDATION¹


For the reasons set out above, it is respectfully RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

ANY OBJECTIONS to this Report and Recommendation must be filed within fourteen (14) days of service of this Report and Recommendation and must state with particularity the specific portions of this Report and Recommendation to which objection is made. *See* Rule 72(b)(2) of the Federal Rules of Civil Procedure and Local Rule 72.02(a). Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Any response to the objections

¹ This Report and Recommendation provides notice to Plaintiff of the Court's intention to *sua sponte* dismiss the action, and the fourteen-day period for filing objections provides him with the opportunity to show good cause for why the action should not be dismissed under Rule 4(m).

must be filed within fourteen (14) days after service of objections. *See* Federal Rule 72(b)(2) and Local Rule 72.02(b).

Respectfully submitted,



BARBARA D. HOLMES
United States Magistrate Judge